2013 Reauthorization STOP Formula Grant Program **Merry Wills**

Nebraska Crime Commission

Violence Against Women Act History

- Established 1994
- Originally a crimes bill
- Later additions had greater focus on funding holistic services for survivors as well as offender accountability
- Grant funds to states, justice systems and nonprofits to increase capacity
- Includes federal law mandates and remedies



VAWA

- 2013 Reauthorization
- STOP effects funds beginning with the FY 2014 funds to be announced November 2014
- 4 Crimes domestic violence, dating violence, sexual assault and stalking
- 5 year authorization
- http://www.gpo.gov/fdsys/pkg/BILLS-113s47enr/pdf/BILLS-113s47enr.pdf



VAWA 2013 Purpose Areas

- 20 Purpose Areas (PA)
- 7 NEW
- Of the 14 PAs from the 2005 VAWA, 13 remain
- Eliminated PA #6 that stated "developing, enlarging, or strengthening programs addressing stalking."
- Ensures all PAs include domestic violence, dating violence, sexual assault and stalking.



Amended Purpose Area #5 "Legal Assistance"

Developing, enlarging, or strengthening victim services and legal assistance programs, including sexual assault, domestic violence, dating violence, and stalking programs, developing or improving delivery of victim services to underserved population, providing specialized domestic violence court advocate in courts where a significant number of protection orders are granted, and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including the 4 crimes.



Providing Legal Assistance Somust certify: No MORE

Subgrantees must certify:

- 1) Any person providing legal assistance
 - a. Has <u>demonstrated expertise</u>; or
 - b. Partnered with an entity or person that has such demonstrated expertise, and has completed or will complete training including training on evidence-based risk factors for domestic and dating violence homicide;
- 2) <u>Training</u> conducted has been or will be developed with <u>input from and in</u> <u>collaboration</u> with a tribal, state, territorial, or local victim service provider or coalition, as well as appropriate tribal, state, territorial, and local law enforcement officials;
- 3) Any person or organization providing legal assistance has <u>informed and will</u> <u>continue to inform</u> state, local or tribal domestic violence, dating violence, or sexual assault programs and coalitions, as well as appropriate tribal, state, territorial, and local law enforcement officials of their work; and
- 4) Organizational <u>policies do not require mediation or counseling</u> involving offenders and victims physically together, in cases where sexual assault, domestic violence dating violence, or child sexual abuse is an issue.

7 New Purpose Areas

- (14) developing and promoting State, local, or tribal <u>legislation</u> and policies that enhance best practices for responding to the 4 crimes
- (15) developing, implementing, or <u>enhancing SARTs</u>, or other similar coordinated community responses to <u>sexual assault</u>
- (16) developing and strengthening policies, protocols, best practices, and training for <u>law enforcement agencies and prosecutors</u> relating to investigation and protection of <u>sexual assault</u> cases and appropriate treatment of victims
- (17) developing, enlarging, or strengthening programs addressing sexual assault against men, women, and youth in correctional and detention settings

7 New Purpose Areas cont.

(18) identifying and conducting inventories of <u>backlogs of sexual</u> <u>assault evidence collection kits and developing protocols and policies</u> for responding to and addressing such backlogs, including protocols and policies for <u>notifying and involving victims</u>

(19) developing, enlarging, or strengthening programs and projects to provide service and responses <u>targeting male and female victims</u> of the 4 crimes whose ability to access traditional services and responses is affected by their <u>sexual orientation or gender identity</u>, as defined in section 249(c) of title 18, United States Code

(20) developing, enhancing, or strengthening <u>prevention and</u> <u>educational</u> programming to address the 4 crimes, with not more than 5% of the amount allocated to a state to be used for this purpose



Allocation Categories

- 25% for Law Enforcement
- 25% for Prosecution
- 30% for Victim Services 10% of this must be distributed to culturally specific communitybased organizations
- 5% must be <u>TO</u> the State and local Courts (including juvenile courts)
- 15% for Discretionary



Culturally Specific Community-Based Organization

Non-profit, nongovernmental or tribal organization that serves a specific geographic community that:

- primarily focuses on the 4 crimes;
- has established a <u>specialized culturally specific program</u> that addresses the 4 crimes;
- has a primary <u>focus on underserved populations</u> (and includes representatives of these populations) <u>and the 4</u> <u>crimes</u>; **OR**
- obtains <u>expertise</u>, or shows demonstrated capacity to work effectively, on the 4 crimes through collaboration;

AND:

- is primarily <u>directed towards racial and ethnic minority</u> groups; <u>and</u>
- provides services tailored to the unique needs of that population.

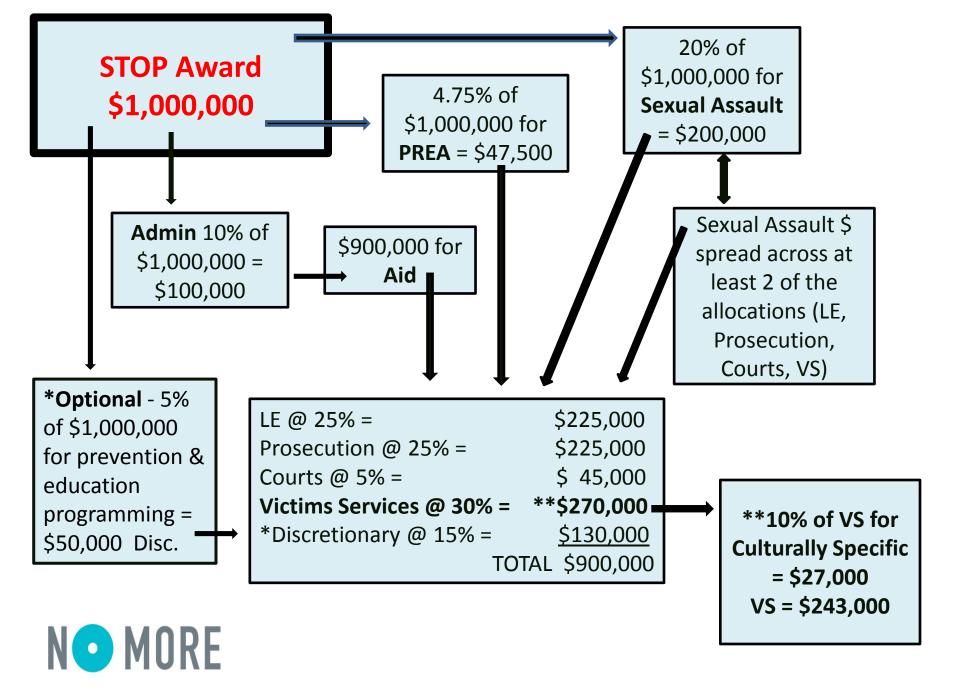
TO the Courts

- Allocation is "to" the courts, rather than "for" the courts.
- Funds in this category must be awarded to a court entity.
- Includes state, local, tribal, and juvenile courts.



Additional Allocation Requirements

- 20% to programs or projects that <u>meaningfully</u> address sexual assault. Must come from 2 or more categories.
- 4.75% will go to support what is needed for PREA compliance (does not include funds to the Courts).
- 10% for NCC to administer the funds.
- 5% (no more) can be used for prevention and educational programming to address the 4 crimes (Discretionary)
- Authorizes states to use returned or remaining funds for any authorized STOP purpose.



Meaningful Sexual Assault Services

- Are services driven by the needs of the victims?
- Do the services provided have a purpose or objective?
- What is the rate of utilization?
- Do the services improve the life's of victims?
- Is the data collected statistically significant?

http://www.nsvrc.org/sites/default/files/nsvrc_publications_article_sadi_building-comprehensive-sexual-assault-programs.pdf



Prison Rape Elimination Act

 States that receive Department of Justice (DOJ) funding for "prison purposes" must certify compliance with the DOJ National Standards to Prevent, Detect and Respond to Prison Rape.

 Purpose Area 17 qualifies VAWA to be for prison purposes.

DV & SA

 Domestic Violence adds "intimate partner" to eligible relationships.

 Sexual Assault – Any nonconsensual sexual act proscribe by Federal, tribal, or State law, including when the victim lacks capacity to consent.



Underserved Populations

Populations who face barriers in accessing and using victim services, and includes populations underserved because of

- geographic location,
- religion,
- sexual orientation,
- gender identity,
- underserved racial and ethic populations,
- populations underserved because of special needs, such as
 - language barriers,
 - disabilities,
 - alienage status, or
 - age, and

Any other population determined to be underserved by the Attorney General or by the Secretary of Health and Human Services, as appropriate.



Underserved Populations

 Culturally Specific – primarily directed towards racial and ethnic minority groups.

American Indians (including Alaska Natives, Eskimos, and Aleuts); Asian American; Native Hawaiians and other Pacific Islanders; Blacks; and Hispanics (individuals whose origin is Mexican, Puerto Rican, Cuban, Central or South American, or any other Spanish-speaking country).

• Culturally Specific Services – community based services that include culturally relevant and linguistically specific services and resources to culturally specific communities.



Underserved Populations

- Population Specific Organization a non-profit, nongovernmental organization that primarily serves members of a specific population and has demonstrated experience and expertise providing targeted services to members of that specific underserved population.
- Population Specific Services victim-centered services that address the safety, health, economic, <u>legal</u>, housing, workplace, immigration, confidentiality, or other needs of victims of the 4 crimes that are designed primarily for and are targeted to a specific underserved population.

Youth

• Individuals ages 11 - 24.

 Previously identified as a "teen or young adult."



Confidentiality

 Allow minors who are permitted by law to receive services without parent or guardian consent to authorize release of information without parent or guardian consent.

 Requires subgrantees to document compliance with confidentiality and privacy provisions.



Victims Services

Includes telephonic or web-based hotlines, legal advocacy, economic advocacy, emergency and transitional shelter, accompaniment and advocacy through medical, civil or criminal justice, immigration, and social support systems, crisis intervention, short-term individual and group support services, information and referrals, culturally specific services, population specific services, and other related supportive services.



Personally Identifying Information

Individually identifying information for or about an individual including information likely to disclose the victim of domestic violence, dating violence, sexual assault or stalking, regardless of whether the info. is encoded, encrypted, hashed, or otherwise protected including:

- first and last name;
- home or other physical address;
- contact info. (including a postal, email or Internet protocol address, or phone or fax #);
- social security number, <u>driver's license number</u>, <u>passport number</u>, <u>or student identification</u>;

and any other info., including DOB, racial or ethnic background, or religious affiliation, that would service to i.d. any individual.

New Nondiscrimination Grant Condition

"No person in the United States shall, on the basis of actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under [VAWA], and any other program or activity funded in who or in part with funds appropriated for grants, cooperative agreements, and other assistance administered by the Office on Violence Against Women."



"sex"

 Must provide services to a male victim in need who is similarly situated to female victims the program ordinarily serves and who request services.

 Can not exclude any person from receiving grant-funded services on a number of grounds, including that person's sex.



Exception to Prohibition on Sex Discrimination

"If sex segregation or sex-specific programming is necessary to the essential operation of a program, nothing in this paragraph shall prevent any such program or activity from consideration of an individual's sex. In such circumstances, grantee may meet the requirements by providing comparable services to individuals who cannot be provided with the sex-segregated or sex-specific programming."



"sex-segregated or sex-specific programming"

- Sex-segregated is when males and females receive services in separate settings.
- Sex-specific is when a subgrantee designs programming differently for males and females.

Both place individuals in a position to choose to identify with a particular sex.



"gender identity"

 Gender Identity - the "actual or perceived gender-related characteristics." A person's internal view of their gender.

 Sexual Orientation – is not defined by VAWA. Heterosexual, homosexual and bisexual are all sexual orientations.



"program or activity"

All operations of a recipient, even if non-covered funds support a particular operation.

If a police officer is supported under a police department then the law enforcement agency must not discriminate against a person on the basis of actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, or disability in all of its operations.



Employment Discrimination

 Prohibited discrimination on the basis of actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, or disability in employment practices.

 Faith-based organizations cannot discriminate against in program or services but can preference co-religionists for employment. Must submit Certification of Exemption to DOJ.



State Certifications

- Forensic Examinations
- Fees and Costs
- Judicial Notification
- Polygraph Tests



Forensic Examinations

State or another governmental entity incurs the full out-of-pocket cost of forensic medical exams for victims and sexual assault and coordinates with health care providers in the region to notify victims of sexual assault of the availability of rape exams at no costs to the victims. Without regard to whether the victim cooperates in the criminal justice system or cooperates with law enforcement.



Fees & Costs

- Law, policies and practices
- No victim bears the costs associated with the prosecution of misdemeanor or felony dv, dv, sa or stalking offense OR the filing, issuance, registration, modification, enforcement, dismissal, withdrawal or service of a warrant, PO, petition for a PO, or witness subpoena, whether issued inside or outside the State, tribe or local jurisdiction



Judicial Notification

- Notification of Firearm Laws
- Judicial administrative policies and practice include notification to dv offenders that individuals subject to dv protection orders may be prohibited from purchasing, receiving and possessing firearms and ammunition
- Must include finding that respondent represents a credible threat to the physical safety of the petitioner(s) and the petitioner(s) was in reasonable fear of bodily injury.



Polygraph Testing

- No law enforcement officer, prosecuting officer or other government official shall ask or require an adult, youth or child victim of an alleged sex offense to submit to a polygraph examination or other truth telling devices as a condition for proceeding with the investigation of the offense.
- Refusal of the victim to submit . . . shall not prevent the investigation, charging or prosecution of the offense.
- Expands victim polygraph prohibition to trial and sentencing



VAWA 2013 Reauthorization Other Highlights Include . . .

Trafficking
Immigration
Tribal Jurisdiction
College Campuses
Housing



Trafficking in VAWA Examples

- Adds "sex trafficking" definition
- Tribal provisions include sex trafficking
- Clarifies that victim services and legal assistance may be provided to victims of human trafficking who are also victims of domestic violence, dating violence, sexual assault or stalking.



Immigration Examples

- Adds "stalking" and "foreign labor contracting" to the list of crimes covered by the U visa
- Provides "age-out fix" for derivative U visa applicants. Will continue to be classified as children even if they turn 21 while their parent's application or their own is still pending (retroactive)



Tribal Examples

- Includes population of tribes in total population for each State for purposes of funding formula.
- Recognizes and affirms tribal criminal jurisdiction over all persons committing domestic violence, dating violence, or violation of protection orders within Indian country
- Exceptions for when neither party is Indian, or when defendant lacks significant ties to Tribe



College Campuses Examples

- Amends the Clery Act to add domestic violence, dating violence, and stalking to the list of crime statistics that higher education institutions must report
- Provides for increased campus responsiveness to the 4 crimes, better protections for victims and accountability for perpetrators



Housing **Examples**

- Continues to bar eviction/termination due to status as a victim and requires landlords to maintain victim-tenant confidentiality, protections included in VAWA 2005
- Expands housing protections from VAWA 2005 to cover all federally-subsidized housing programs
- Adds sexual assault victims to those protected



Thank you!

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